S.B.CIVIL WRIT PETITION NO.5914/2007

Babu Lal Makana
v.
Jaswant Raj Bhansali

Date of Order :: 18th September, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Ashok Chhangani, for the petitioner.

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The Rent Tribunal, Jodhpur by order dated 14.3.2007 rejected an application preferred by the petitioner non-applicant under Order 7 Rule 11 CPC. It is asserted by counsel for the petitioner that Shri Mohan Raj Bhansali during his lifetime specifically mentioned in the will executed that he and any of his family member shall not be having any right in the property, thus, applicant Shri Jaswant Raj being son of Late Shri Mohan Raj Bhansali cannot be treated as landlord. According to counsel for the petitioner the Tribunal was having no jurisdiction to entertain the application preferred under Section 21 of the Rajasthan Rent Control Act, 2001 (hereinafter referred to as “the Act of 2001”) by applicant respondent Shri Jaswant Raj Bhansali as he is not the landlord.

I do not find any substance in the contention so raised. The issue with regard to relationship of landlord and tenant between the

petitioner and respondent Shri Jaswant Raj Bhansali requires adjudication and at this stage on basis of an averment made in affidavit sworn-in by Shri Jaswant Raj Bhansali, it cannot be held that no relationship of landlord and tenant was existing. Beside that the petitioner shall be having all opportunity before the Tribunal to prove that as a consequence to the averment contained in affidavit sworn-in by applicant Shri Jaswant Raj Bhansali no relief can be claimed under Section 21 of the Act of 2001.

With the observations above, this petition for writ is disposed of.

(GOVIND MATHUR),J.

Kkm/ps.